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QUESTIONNAIRE IV.

INTERNATIONAL LABOUR CONFERENCE.

THIRD SESSION.

GENEVA, APRIL, 1921.

UNIV. OF CALIFORNIA

THE WEEKLY REST-DAY IN INDUSTRIAL AND COMMERCIAL ESTABLISHMENTS.

ITEM IV OF THE AGENDA.

GENEVA.
INTERNATIONAL LABOUR OFFICE.
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INTRODUCTORY NOTE.

When making preparations for the preceding Sessions of the General Conference, the International Labour Office sent out extensive questionnaires to all Governments requesting them to forward all available information concerning the questions on the Agenda. Special stress was laid upon the importance of receiving the most complete information on existing and proposed legislation, and on agreements between employers and workers. Finally, Governments were asked to give their opinion on the proposed Draft Conventions and Recommendations.

This method had two drawbacks :—

(1) *Such protracted enquiries were necessitated by this form of questionnaire that the majority of the replies were received too late to allow of the elaboration of a carefully considered report.*

(2) *Some Governments appeared to consider sufficient the enquiry into existing legislation and the conditions which gave rise to it, and failed to realise the necessity of examining carefully the possibilities of international action. It was, therefore, impossible for the International Labour Office to form a proper estimate of the objections and difficulties which a Draft Convention might encounter.*

These drawbacks were felt keenly during the last Session f the Conference at Genoa. Hence the following new

method has been adopted—a method made possible by the development of the Office :—

(*a*) *The problem is studied, and existing legislation and available information on the subject are collected by one of the technical services of the International Labour Office. Requests to Governments for information or documents are confined to what is needed to complete the information already available.*

(*b*) *The Office then draws up a questionnaire relating exclusively to the possibility of elaborating Draft Conventions or Recommendations on the question at issue, and to the provisions which it may or may not seem necessary or possible to include in them. The present questionnaire is of this type.*

(*c*) *When the International Labour Office has received the replies to the questionnaire, and is thereby informed of the opinions of the Governments of the various States, it will proceed to draw up a General Report, together with Draft Conventions or Recommendations, to serve as definite bases for the discussions of the Conference. In order to facilitate this task the replies to this questionnaire should reach the Office not later than the* 1*st March* 1921.

The preparation of the General Report referred to in paragraph (*c*) *would be facilitated if, where possible several copies of the replies and important documents in English or French were communicated to the Office. For Federal States answers should be given both for the central Government and for the principal local Governments in so far as they have legislative authority in this question*

INTERNATIONAL LABOUR CONFERENCE.
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ITEM IV OF THE AGENDA.

"The Weekly Rest Day in Industrial and Commercial Employments."

Preliminary Survey of the Question.

In Article 427 of the Treaty of Peace, certain methods and principles are laid down as being of special and urgent importance, which all industrial communities should endeavour to apply, so far as their special circumstances permit. The fifth among these methods and principles is "the adoption of a weekly rest of at least 24 hours, which should include Sunday wherever practicable."

The weekly rest-day is, in a sense, the immediate complement of the Draft Convention on the 8-hours' day and the 48-hours' week, adopted at the first Session of the International Labour Conference held at Washington in November, 1919. In the discussions that there took place, both in the full Conference, and in the meetings of the Commission set up to deal with the question of hours of labour, the weekly rest was recognised as being the natural corollary of the definite restriction of the number of hours worked *per* week.

The opening speech of Mr. Barnes, the Government Delegate of Great Britain, may be recalled, in which he emphasised the fact that the workers, in pressing for

the statutory limitation of hours of work, were desirous, not of providing opportunities for overtime and overtime rates, but of securing the certainty of leisure time for the fuller realisation of their personalities.*

In addition to the implicit assumption of the weekly rest-day running through the Draft Convention upon Hours of Labour, specific mention of it occurs in Article 4, which runs :—

"*The limit of hours of work prescribed in Article 2*" (*not to exceed* 8 *in the day and* 48 *in the week with the exceptions provided for in the subsequent Articles*) "*may also be exceeded in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, subject to the condition that the working hours shall not exceed* 56 *in the week on the average. Such regulation of the hours of work shall in no case affect any rest-days which may be secured by the national law to the workers in such processes in compensation for the weekly rest-day.*"

Already varying degrees of national legislation on the subject exist in a very large number of states, and this legislation is notably supplemented by custom and agreements. Two states provide for the observance of the weekly rest-day, fixed in principle on Sunday, for industry only, but the great majority (29 in all) have legislative regulations in force, whereby the weekly rest-day, fixed for Sunday as far as possible, is observed both in industry and commerce; while three of these states apply the weekly rest-day to agricultural workers. In only two countries of importance is legislation on the subject confined to women and children working in factories.

* Proceedings of the Washington Conference, page 33.

The Governing Body of the International Labour Office, who are charged by Article 400 of the Treaty of Peace with the settlement of the Agenda of the Conference, have therefore considered that the wide consensus of opinion as to the principle, the legislative experience already gained and the immediate connection with the international regulation of maximum hours of labour combine in forming a most powerful argument for the desirability and efficacy of a Draft Convention which, while taking the fullest account of partially conflicting interests and of the special conditions prevailing in certain countries, should effect general uniformity in the application of the principle of the weekly day of rest.

It is suggested that it might be advisable for the Conference to weigh carefully the advantages of dealing with the subject under the two separate headings of industrial workers and commercial workers, and of adopting, in consequence, two distinct but complementary Draft Conventions. Conditions of employment, customary usage and public requirements would seem to militate in favour of such a division, for which there are already practical precedents in existing legislation. The Washington Draft Convention on Hours of Labour applies solely to industrial undertakings, and provides at the end of Article 1 that "*the competent authority in each country should define the line of division which separates industry from commerce and agriculture.*" There is, therefore, probability that by the time of the Conference sufficient information could be available from all countries to provide for adjudication as to which occupations should be classed as industrial and which as commercial, while the presence at the Conference of agricultural experts required for Item II of this

Agenda would facilitate agreement as to the drawing of the line between commercial and agricultural occupations.

Although it does not seem essential that the weekly day of rest should fall on the same day in all countries, it is for various reasons obvious that Sunday should be adopted in principle, due provision being allowed for the situation in non-Christian countries. It would, on the other hand, probably be a matter of general agreement that there are strong reasons for the adoption of the same day of rest in any given country for the great majority of its workers.

It may again be repeated that in any such Draft Convention there can be no question of sacrificing the vital interests of the community as a whole by an over-rigid formalism or by a narrow concentration on the claims of any particular sections. At the same time, it is evident that, if such a Draft Convention is to achieve the objects for which it is designed, safe-guards must be devised against indiscriminate looseness of application. Numerous exceptions or special provisions of various kinds are contained in the existing laws, decrees and agreements on the subject, while in the case of industrial establishments there are a number of articles in the Washington Draft Convention on Hours of Labour, which have a direct bearing on the application of the weekly day of rest.

A brief consideration of the main classes of such provisions may serve to indicate certain lines which the Convention might follow, and to group conveniently the majority of the more difficult points upon which the views of your Government are particularly requested.

(1) The existing provisions made for the power of Governments to suspend the application of regulations as to the weekly rest, with or without according

compensatory rest, under the circumstances of very great national emergency, such as war or the menace of war, clearly need no comment, except that it may be remarked that the experience of the last six years has shown that even during the war it has not been profitable from any point of view to discard entirely the weekly rest-day, save for quite exceptional circumstances and for a very short period, and that the vital needs of production have been by no means adversely affected by the application of this principle.

(2) All regulations now in force recognise certain permanent exceptions to or modifications of the general rule in the case of those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts. Any Draft Convention on the subject of the weekly rest-day would require to give full consideration to such undertakings. It is suggested that the frame-work of Article 4 of the Washington Draft Convention on Hours of Labour, quoted above, might well be taken as the basis for working out a complementary article with regard to the rest-day in such processes. Article 7, paragraph (*a*), of the same Draft Convention provides for the communication by each Government to the International Labour Office of "(*a*) *a list of the processes which are classed as being necessarily continuous in character under Article* 4." The same list would naturally apply for the application of the weekly rest-day.*

* For purposes of immediate exemplification, reference may be made to Schedule A contained in the suggestions for a Draft Convention printed at the end of the Report on the 8-hours' day or 48-hours' week, prepared by the Organising Committee for the Washington Conference, pages 144–145, and to the Report of the Washington Commission on Hours of Work, Proceedings of the Washington Conference, pages 222–229.

The Report of the Washington Commission on Hours of Labour contained the following important suggestion with regard to Article 4 of the Convention: "*Article 4 relates to works the operation of which is necessarily continuous for technical reasons, such as blast furnaces. The majority of the Commission considered that an average of 56 hours per week should be maintained for each of the three shifts in such works, it being understood, in the opinion of the Commission, that the national laws could by means of special holidays best insure to the workers in these industries legitimate compensatory leave for their weekly day of rest. The Commission, however, desired to state that only continuous processes should benefit by the exception, and not the entire undertaking in which such work is carried on.*"

The question of annual holidays is one which has already been the subject of legislation or collective agreements in certain countries, and it is possible that it may come up for discussion by the Conference in connection with the compensatory rest given for work done on Sundays. Although in most cases existing legislation does not fix any limits as regards the possibility of the weekly rest-day being taken in rotation, in a few countries such limits have been laid down, and there would also arise for close consideration the question whether the Draft Convention should not contain a clause providing for such a limitation, *viz.*, that a given proportion of rest-days within a given period should fall on Sunday.

In addition, there are involved, in the application of the rest-day to continuous industries, the points as to a rotation of the individuals comprising each shift, and as to the rest being of 24 hours on end, but not of a full calendar day.

(3) In commercial undertakings, there are cases, such as hotels, restaurants, tobacconists, barbers and chemists, where the necessities or customs of daily life require that special provisions should be envisaged with regard to their continuous functioning. Hospitals and places of amusements should also be included in this category.

(4) The transport industry, which is in a sense of a continuous character, would seem, despite the above reference to Article 7, paragraph (*a*), of the Washington Draft Convention on Hours of Labour, to be best susceptible of treatment by means of separate regulations. These already in many countries form an extremely elaborate system of agreements. The Washington Draft Convention included as Article 5, provisions which were specially designed to meet the difficulty of the application of the 8-hour day and the 48-hour week to the running of railways. "*In exceptional cases where it is recognised that the provisions of Article* 2 (hours of work not to exceed 8 in the day and 48 in the week) *cannot be applied, but only in such cases, agreements between workers' and employers' organisations concerning the daily limit of work for a longer period of time may be given the force of regulations, if the Government, to which these agreements shall be submitted, so decides. The average number of hours worked per week over the number of weeks covered by any such agreement shall not exceed* 48."

The Washington Commission in their Report stated *à propos* of this Article: "*After the discussion on Article* 4 *was finished, various members of the Commission called attention to the fact that the Articles voted upon did not allow the running of the railways in certain*

countries to be conveniently arranged, that agreements provisionally concluded provided for 10-*day periods, for instance, with* 10-*day rests and supplementary monthly or tri-monthly rests ; other examples were brought forward for other industries.*" Here again it may be anticipated that consideration will be required of compensation being granted for work done on Sunday in the form of annual holidays.

(5) Special provisions would be examined as regards certain work of an essentially intermittent character or of a preparatory or complementary character.

(6) The temporary suspension or reduction of the weekly rest would seem to be required in certain occupations which involve, owing to their seasonal character or to exceptional cases of pressure of work, intense activity during fixed periods of the year.*

(7) Somewhat similar treatment would probably be claimed for commercial establishments in holiday or health resorts, where hotels, restaurants, hot springs and mineral waters establishments, certain classes of shops and places of amusement, have periods of great activity followed by slack periods or temporary cessation.

(8) Commercial establishments dealing with the preparation and distribution of essential foodstuffs would, at least in many areas, need the modification of Sunday as the weekly day of rest.

(9) Allowance would also have to be made for industries which are directly affected by conditions of weather, such as building operations, etc.

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* For examples of such industries reference may be made to Schedule C, paragraphs (i), (ii), (iii), in the Report on the 8-hour day or 48-hour week, prepared by the Organising Committee for the Washington Conference, page 146.

(10) Finally, regulations would be needed providing for exceptional and temporary displacements of the usual day of rest in cases of unforeseen difficulty, of accident, of extremely urgent work, or of *force majeure*.

It is evident that the exceptions to be accorded may be of a very large number of different kinds, and it does not appear likely that they could be delimited in a definitive manner by the Conference. At the same time it would seem to be possible for the text of the Draft Convention to admit a number of such exceptions, to lay down the general motives for which they could be allowed, to fix the limits within which they could be permitted, and to regulate the compensation which should be accorded for work performed on the weekly day of rest.

Two final points require consideration: the prolongation of the weekly rest so as to include a half holiday on Saturday and the application of the weekly rest to agriculture.

The fourth item on the Agenda is "the weekly rest-day in commercial and industrial employments," and, although it could strictly be maintained that the Conference would not be going beyond the terms of the Agenda in considering the possibility of the extension of the weekly rest beyond 24 hours and in inserting a clause to that effect in a Draft Convention on the subject, it would appear that, in view of the fact that some Governments might consider this an over-wide interpretation of the item in question, the Conference could best deal with the question by adopting a resolution in favour of the extension of the weekly rest beyond 24 hours. Such an extension is, indeed, much to be desired, and it tends to be applied in an increasing

number of countries. Nine countries, all of the first importance, have already given legislative sanction, although in very varying degrees, to this tendency, which is becoming more and more noticeable in the claims of the workers.

With regard to the application of the weekly rest-day to agriculture, it should be remarked that a number of agricultural questions of the first importance figure on the Agenda of the Conference, and that the discussion of them by the Conference will provide the most suitable opportunity for considering the advisability of passing a resolution in favour of applying the weekly rest-day to agriculture.

To summarise the conclusions of this preliminary survey : inasmuch as the weekly day of rest is recognised as a necessary measure for the health and happiness of all men and women, and is already to a large extent established by usage, custom and legislation, and appears as the natural corollary to the international regulation of the maximum hours of labour, it is suggested that it is a question which is susceptible in an eminent degree of being the subject of an international agreement, taking the form of two Draft Conventions, the one for industrial establishments, the other for commercial establishments, and that such Draft Conventions might well be founded upon the following bases :—

(i) the adoption of the weekly rest of 24 hours in industrial and in commercial undertakings ;

(ii) the fixing of the weekly rest-day in principle on Sunday ;

(iii) the admission of exceptions within certain limits and under certain conditions.

QUESTIONNAIRE.

1. Is it considered that effective steps could be taken by means of an international agreement to regularise the adoption of the principle of the weekly rest-day?

2. Is it considered that such agreement could take the form of a Draft Convention dealing with the application of the above principle to industrial undertakings, and of a second Draft Convention applying to commercial undertakings?

3. Would the following bases for such Draft Conventions be considered acceptable?

(a) The adoption of the principle of the weekly rest of 24 hours in industrial and commercial establishments without prejudice to the existence of any weekly rest of a longer period.

(b) The adoption of Sunday as, in principle, the weekly rest-day, full account being taken of the special conditions of certain countries.

(c) The accordance of exceptions under certain conditions and within certain limits.

4. Is it considered that the following constitute a satisfactory outline of the limitations to exceptions mentioned in question 3 (c)?

(a) Industries in which the processes are required by reason of the nature of the process, to be carried on continuously by a succession of shifts.

(b) Commercial establishments such as hotels, restaurants, etc.

(c) The transport industry.

(d) Preparatory or complementary work and work of an essentially intermittent character.

(e) Industrial establishments of a seasonal character, or those which may be required to deal with periods of exceptional pressure of work.

(f) Commercial establishments dependent on seasonal conditions.

(g) Commercial establishments dealing with the preparation and distribution of foodstuffs.

(h) Industrial work carried on in the open air and dependent on conditions of weather.

(i) Work performed in cases of accident, of urgent work to be done on machinery or plant or of force majeure.

5. Is it considered in connection with question 3 (c) and question 4 that the following alternatives or combinations should form the bases of discussion for the conditions under which exceptions should be envisaged ?

(a) Compensation for work done on Sunday :—

(i) by higher wages ;

(ii) by accordance of a rest-day on a week-day ;

(iii) by accordance in the same week of a period of 24 hours' rest, or of two periods amounting to 24 hours, or of an equivalent period of rest ;

(iv) by accordance of monthly or tri-monthly holidays on full pay.

(b) Rotation of weekly rest-day.

(c) Limitation to such rotation, e.g., by provision that a given number of rest-days within a given period must fall on Sunday.

6. Are you of the opinion that the length of the weekly rest should exceed 24 hours (the Saturday half-holiday) ?

N.B.—The preparatory work for the 1921 Conference would be facilitated if you would kindly supply information :—

(i) *as to the legislation and decrees on the weekly rest in force or in preparation ;*

(ii) *as to the collective agreements in force ;*

(iii) *as to the customs observed.*

HARRISON & SONS, LTD., Printers, St. Martin's Lane W.C.2.

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